



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

SUBJECT: SEE BELOW

FROM: Scott P. Johnson

DATE: May 17, 2010

Approved

Date 5/28/10

COUNCIL DISTRICT: Citywide

**SUBJECT: RECORDING LIENS ON PROPERTY FOR THE REIMBURSEMENT OF
COST FOR SIDEWALK REPAIRS**

RECOMMENDATION

Adoption of a resolution approving the Report of the Director of Finance on the Reimbursement of Cost for Sidewalk Repairs, confirming the assessments contained in the Report and directing the recording of liens on the property tax roll for the cost of sidewalk repairs.

OUTCOME

To recover funds spent on sidewalk repairs from property owners.

BACKGROUND

On April 27, 2010, the City Council set a hearing for June 8, 2010 at 1:30 p.m. for public protest and approval of the Report of the Director of Finance to record liens on the property tax roll for the cost of sidewalk repairs the City made on behalf of property owners.

As discussed in the Council Memo that accompanied the recommendation to set the public hearing, State law and the San Jose Municipal Code make it the duty of each property owner to maintain the sidewalk fronting their property in a safe condition. Sidewalk repair in the City of San Jose is a request-driven program. Residents who contact the Department of Transportation

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(DOT) regarding a sidewalk in need of repair may request an inspection of the property from DOT staff. If it is determined the sidewalk needs repair, DOT sends a repair notice to the property owner. DOT works with property owners to facilitate the repairs. In some cases, DOT completes the repairs and attempts to recover the cost of the repairs from the property owner. These repairs are currently funded by the City's General Fund.

Property owners are invoiced for sidewalk repairs undertaken by DOT. Finance staff work diligently to recover expended funds; however, in some cases, property owners neglect to pay the outstanding obligations. To recover the costs of these unpaid invoices, the City Council can levy assessments against the defaulting properties at the conclusion of a public hearing process.

ANALYSIS

A report from the Director of Finance will be issued for the cost of sidewalk repairs (Director's Report). The Director's Report will include properties currently in default in which the City incurred costs for the sidewalk repairs on behalf of the property owners. The report identifies 39 properties with a proposed total assessment of \$72,054.54. The cost of the repairs (funded by the General Fund) and individual assessments vary from \$537.64 to \$11,251.09. A \$13.00 lien-release fee is charged by the County Recorder's Office for each assessment. These amounts have been paid by the City to concrete contractors to complete sidewalk repairs at the various properties listed on the report.

Sidewalk Repair Collection Process

The City makes every attempt at collecting delinquent sidewalk repair invoices. Since the inception of this program, over 95% of the sidewalk repair invoices were paid by either collection efforts or placing a lien on the property, which is done through the County Recorder's Office. The City ultimately received 99% of the amount due through the County property tax roll. These efforts have brought in over \$3,537,206. Following is a summary of the billing and collection process as it relates to recovery of City costs for sidewalk repairs:

- Initial invoices for sidewalk repairs are issued by the DOT.
- Payments are due within 30 days of the initial mailing.
- The Finance Department sends delinquency notices once an initial invoice is at least 60 days past due.
- The Finance Department may call the property owner, if telephone contact information is available, to further attempt the collection of delinquent obligations.
- Two Notices of Intent to Lien are sent to each delinquent property owner.

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- Administrative conferences are held by the DOT to provide property owners an opportunity to resolve any issues prior to a public hearing.
- City Council holds a public hearing and authorizes the placement of liens on delinquent properties.
- County Recorder places liens on delinquent properties.
- County Tax Collector assesses and collects delinquent amounts.
- The full amount assessed (less a .3% County administrative collection fee) is remitted to the City.

Notification Process

DOT notified delinquent property owners listed in the report in two separate mailings sent on April 28, 2010 and May 5, 2010. These notifications indicated the time and place of the public hearing while affording property owners an opportunity to schedule an administrative conference as an effort to resolve potential protests prior to the public hearing. Administrative conferences were held on May 13, 2010 in the DOT offices. These administrative conferences do not affect the property owners' right to protest the proposed assessment at the City Council public hearing.

Results of the administrative conferences and staff recommendations will be presented to the City Council in a supplemental memorandum along with a final Report from the Director of Finance on the cost of sidewalk repairs. After hearing any protests and considering the updated information presented in the supplemental memorandum, the City Council may confirm the Director's Report and the full amounts contained therein or reduce any of the amounts due. In addition, Council may approve the following action for each assessment:

- Place a lien against the property for the unpaid amount, to be paid with the next annual property tax bill.

EVALUATION AND FOLLOW-UP

Staff in the Revenue Management Division of the Finance Department will continue its collection efforts in order to reduce the number of delinquent accounts that require a lien hearing. Furthermore, Finance staff will continue to monitor accounts forwarded to the County for collection on the tax roll for full compliance with the sidewalk lien program.

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PUBLIC OUTREACH/INTEREST

- ☐ **Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- ☐ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council, or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, this memorandum will be posted on the City's website for the June 8, 2010 City Council agenda.

COORDINATION

This memorandum has been coordinated with the Department of Transportation and the City Attorney's Office.

COST IMPLICATIONS

The funds used to repair the sidewalks (\$71,547.54) and to advance the lien fee to the County (\$507), totaling \$72,054.54 were advanced from the General Fund and are listed in the attached report.

CEQA:

Not a project.

/s/
SCOTT P. JOHNSON
Director, Finance

For questions, please contact Wendy Sollazzi, Revenue Management Division Manager at (408) 535-7005.

| | | Department of Finance | | | | | | | | | |
|----------|---------------|---|--------------------------|------------------------|------------|-----------------|-----------|---------------|--|--|--|
| | | Report of the Director of Finance to the City Council on the Cost of Sidewalk Repairs | | | | | | | | | |
| | | City of San Jose | | | | | | | | | |
| | | Public Hearing June 8, 2010 | | | | | | | | | |
| ACCOUNT# | DATE ASSIGNED | MAILING ADDRESS | CITY, ST ZIP | PROPERTY ADDRESS | APN# | CURRENT BALANCE | LIEN FEE | TOTAL BALANCE | | | |
| 136613 | 3/12/2009 | 6058 CHESBRO AVE | SAN JOSE CA 95123-3917 | 6058 CHESBRO AV | 687-11-022 | \$ 524.64 | \$ 13.00 | \$ 537.64 | | | |
| 156263 | 11/10/2009 | 190 EL CAMINITO AVE | CAMPBELL CA 95008 | 483 BUENA VISTA AV | 277-17-042 | \$ 753.96 | \$ 13.00 | \$ 766.96 | | | |
| 152421 | 7/24/2009 | 2948 BEWCASILE CT | SAN JOSE CA 95132-1601 | 2948 BEWCASILE CT | 589-05-033 | \$ 761.79 | \$ 13.00 | \$ 774.79 | | | |
| 137013 | 4/17/2009 | 3397 ARAMIS DR | SAN JOSE CA 95127-4202 | 3397 ARAMIS DR | 647-08-001 | \$ 753.02 | \$ 13.00 | \$ 766.02 | | | |
| 136362 | 2/12/2009 | 114 BERNAL RD | SAN JOSE CA 95119-1302 | 114 BERNAL RD | 706-30-007 | \$ 761.52 | \$ 13.00 | \$ 774.52 | | | |
| 135668 | 12/18/2008 | 2181 NAOMI RD | FRANKLINVILLE NC 27248 | 27 CLEAVES AV | 261-32-025 | \$ 793.00 | \$ 13.00 | \$ 806.00 | | | |
| 135669 | 12/18/2008 | MR-1013 BIRD AVE | SAN JOSE CA 95125 | 1013 BIRD AV | 264-55-044 | \$ 801.00 | \$ 13.00 | \$ 814.00 | | | |
| 135921 | 1/7/2009 | 326 HONEYBELL ST | LOS BANOS CA 93635-9223 | 1369 SAN JUAN AV | 220-32-074 | \$ 876.50 | \$ 13.00 | \$ 889.50 | | | |
| 136335 | 2/12/2009 | 1849 MONTAGE CT | SAN JOSE CA 95131 | 1849 MONTAGE CT | 244-30-045 | \$ 882.80 | \$ 13.00 | \$ 895.80 | | | |
| 137094 | 4/16/2009 | 460 S 19TH ST | SAN JOSE CA 95116 | 460 S 19TH ST | 472-38-056 | \$ 920.00 | \$ 13.00 | \$ 933.00 | | | |
| 157125 | 12/9/2009 | 347 S 18TH ST | SAN JOSE CA 95116-2704 | 347 18TH ST | 467-51-004 | \$ 971.12 | \$ 13.00 | \$ 984.12 | | | |
| 152378 | 7/24/2009 | 388 N 13TH ST | SAN JOSE CA 95112-1832 | 388 13TH ST | 249-56-034 | \$ 993.15 | \$ 13.00 | \$ 1,006.15 | | | |
| 152393 | 7/24/2009 | 14920 WINCHESTER BL | LOS GATOS CA 95030-2306 | 790 BIRD AV | 264-45-065 | \$ 1,075.75 | \$ 13.00 | \$ 1,088.75 | | | |
| 135907 | 1/7/2009 | 985 UNIVERSITY AVE STE 12 | LOS GATOS CA 95032 | 125 SAN PEDRO ST | 259-32-006 | \$ 1,140.20 | \$ 13.00 | \$ 1,153.20 | | | |
| 136612 | 3/12/2009 | 199 OBERT DR | SAN JOSE CA 95136-3105 | 199 OBERT DR | 685-19-026 | \$ 1,143.16 | \$ 13.00 | \$ 1,156.16 | | | |
| 135908 | 1/7/2009 | 985 UNIVERSITY AVE STE 12 | LOS GATOS CA 95032 | 115 SAN PEDRO ST | 259-32-009 | \$ 1,179.00 | \$ 13.00 | \$ 1,192.00 | | | |
| 136357 | 2/12/2009 | 377 AVENIDA ARBOLES | SAN JOSE CA 95123-1408 | 5224 ROEDER RD | 684-31-153 | \$ 1,199.00 | \$ 13.00 | \$ 1,212.00 | | | |
| 152406 | 7/24/2009 | 1204 LOCUST ST | SAN JOSE CA 95110-3319 | 1204 LOCUST ST | 434-11-054 | \$ 1,523.70 | \$ 13.00 | \$ 1,536.70 | | | |
| 136610 | 3/12/2009 | 1058 WILSHAM DR | SAN JOSE CA 95132-2937 | 1058 WILSHAM DR | 591-20-043 | \$ 1,374.56 | \$ 13.00 | \$ 1,387.56 | | | |
| 152387 | 7/24/2009 | 2357 GOMES RD | FREMONT CA 94539-4423 | 118 RAINIER ST | 261-31-033 | \$ 1,457.00 | \$ 13.00 | \$ 1,470.00 | | | |
| 152423 | 7/24/2009 | 3494 ROCKY MOUNTAIN DR | SAN JOSE CA 95127-4852 | 3494 ROCKY MOUNTAIN DR | 647-26-027 | \$ 1,484.45 | \$ 13.00 | \$ 1,497.45 | | | |
| 135922 | 1/7/2009 | 1968 MARQUES AVE | SAN JOSE CA 95125-4646 | 1968 MARQUES AV | 446-26-025 | \$ 1,487.00 | \$ 13.00 | \$ 1,500.00 | | | |
| 156250 | 11/10/2009 | P O BOX 59365 | SCHAUMBURG IL 60159-0365 | 1708 TULLY RD | 670-28-005 | \$ 1,553.22 | \$ 13.00 | \$ 1,566.22 | | | |
| 152413 | 7/24/2009 | 132 N 33RD ST | SAN JOSE CA 95116-1214 | 132 33RD ST | 481-13-116 | \$ 1,554.06 | \$ 13.00 | \$ 1,567.06 | | | |
| 152803 | 8/13/2009 | 315 S BUENA VISTA AVE | SAN JOSE CA 95126 | 315 BUENA VISTA AV | 277-17-030 | \$ 1,603.89 | \$ 13.00 | \$ 1,616.89 | | | |
| 136358 | 2/12/2009 | 5222 ROEDER RD | SAN JOSE CA 95111-4063 | 5222 ROEDER RD | 684-31-154 | \$ 1,601.00 | \$ 13.00 | \$ 1,614.00 | | | |
| 135920 | 1/7/2009 | 1437 SAN JUAN AVE | SAN JOSE CA 95110-1445 | 1437 SAN JUAN AV | 230-32-066 | \$ 1,643.00 | \$ 13.00 | \$ 1,656.00 | | | |
| 152370 | 7/24/2009 | 4986 WILLMA WAY | SAN JOSE CA 95124-5328 | 946 6TH ST | 235-10-020 | \$ 1,728.32 | \$ 13.00 | \$ 1,741.32 | | | |
| 136834 | 3/25/2009 | 325 N 15TH ST | SAN JOSE CA 95112-1841 | 325 15TH ST | 249-56-052 | \$ 1,734.15 | \$ 13.00 | \$ 1,747.15 | | | |
| 136438 | 2/24/2009 | 2526 LOST OAKS DR | SAN JOSE CA 95124-4941 | 2526 LOST OAKS DR | 421-12-031 | \$ 1,839.92 | \$ 13.00 | \$ 1,852.92 | | | |
| 136341 | 2/12/2009 | 1033 THE ALAMEDA | SAN JOSE CA 95126 | 1033 THE ALAMEDA | 261-02-027 | \$ 1,918.52 | \$ 13.00 | \$ 1,931.52 | | | |
| 136436 | 2/24/2009 | 2104 LA MIEL WY | CAMPBELL CA 95008 | 2104 LA MIEL WAY | 404-12-023 | \$ 1,997.76 | \$ 13.00 | \$ 2,010.76 | | | |
| 156249 | 11/10/2009 | 1929 RIGOLETTO DR | SAN JOSE CA 95122-1340 | 1929 RIGOLETTO DR | 670-26-016 | \$ 2,411.37 | \$ 13.00 | \$ 2,424.37 | | | |
| 136380 | 3/25/2009 | 143 N 12TH ST | SAN JOSE CA 95112-3433 | 146 12TH ST | 467-16-022 | \$ 2,547.35 | \$ 13.00 | \$ 2,560.35 | | | |
| 136360 | 2/12/2009 | P O BOX 696000 | SAN ANTONIO TX 78269-600 | 448 BLOSSOM HILL RD | 692-26-003 | \$ 2,971.68 | \$ 13.00 | \$ 2,984.68 | | | |
| 156246 | 11/10/2009 | 3288 BLUE MOUNTAIN DR | SAN JOSE CA 95127-4701 | 3288 BLUE MOUNTAIN DR | 647-29-043 | \$ 3,227.16 | \$ 13.00 | \$ 3,240.16 | | | |
| 136359 | 2/12/2009 | 6067 SANTA YSABEL WY | SAN JOSE CA 95123-3844 | 6067 SANTA YSABEL WAY | 687-12-039 | \$ 3,294.65 | \$ 13.00 | \$ 3,307.65 | | | |
| 152400 | 7/24/2009 | 2942 BELL AVE | SAN JOSE CA 95133-2409 | 368 BUENA VISTA AV | 277-18-012 | \$ 5,840.08 | \$ 13.00 | \$ 5,853.08 | | | |
| 155309 | 10/11/2009 | 3190 SO BASCOM AV #200 | SAN JOSE CA 95124 | 467 BUENA VISTA AV | 277-17-041 | \$ 11,238.09 | \$ 13.00 | \$ 11,251.09 | | | |
| | | | | | TOTAL | \$ 71,547.54 | \$ 507.00 | \$ 72,054.54 | | | |